

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

NEXTGEAR CAPITAL, INC.,

Plaintiff,

v.

CNG AUTO GROUP, INC. d/b/a TOP  
WHEELS; ELONTO R. HERNANDEZ COLON;  
and JULISSA M. FUENTES RIVERA,

Defendants.

CIVIL NO. 15-1824 (JAG) (CVR)

Breach of Contract,  
Collection of Monies,  
Repossession of Personal Property

**MOTION TO ACCEPT THE "REPORT AND RECOMMENDATION"**

TO THE HONORABLE COURT:

COMES NOW the Plaintiff NextGear Capital, Inc. ("NextGear" or "Plaintiff"), through its undersigned attorneys, and respectfully states, alleges, and avers as follows:

1. On June 17, 2015, NextGear filed a Complaint against CNG Auto Group, Inc. d/b/a Top Wheels ("Top Wheels") and Guarantors Elonto R. Hernández Colón and Julissa M. Fuentes Rivera (collectively, "Defendants") alleging breach of contract and seeking collection of monies.

See Docket No. 1.

2. That same day, Plaintiff filed an Emergency Motion for Replevin (Docket No. 4).

3. As explained in the referenced Motion, it came to Plaintiff's attention that Top Wheels or its principals might be conducting out of trust sales in order to deprive NextGear of its collateral (31 automobiles). See Docket No. 4, at ¶¶ 14 and 11.

4. On July 10, 2015, Plaintiff received information that the Defendants might be taking vehicles from its lot for inspection to the Stolen Vehicles Bureau for export. As a result, Plaintiff filed a *Motion for the Court to Consider Referral of Plaintiffs' Emergency Motion (Docket No. 4) to Magistrate Judge for Report and Recommendation* in the hopes of obtaining an Order on its Emergency Motion for Replevin as soon as possible. See Docket No. 9.

5. That same day, the Court granted the Motion for Referral (Docket No. 9) and assigned a Magistrate Judge to the instant case. See Orders at Docket Nos. 10-11.

6. On July 21, 2015, the Magistrate Judge entered a Report and Recommendation (Docket No. 17) granting Plaintiff's Ex-Parte Emergency Motion for Replevin (Docket No. 4).

7. Plaintiff informs it has no objection with the Report and Recommendation entered by the Magistrate Judge and agree with this Honorable Court to adopt it in full.

8. Given the tension and animosity that characterizes the distressed business relationship that exists between Plaintiff and Defendants, Plaintiff has a great interest for the Order and Writ for Replevin be granted as soon as possible, in order to secure the effectiveness of the replevin action and to avoid the Defendants from selling or moving, exporting, secrete, or destroy the vehicles they may still have in their possession as well as their related documents, records, and evidence.

9. In addition, the Magistrate Judgment in the Report and Recommendation further recommended that Plaintiff post a bond to guarantee any damages that may be caused to Defendants by the granting of the ex-parte requests. NextGear informs that they agree to post a bond equivalent to the amount being claimed in the Complaint.

WHEREFORE, NextGear respectfully prays that this Honorable Court (1) adopts the Report and Recommendation entered by the Magistrate Judge; and (2) grants the Order and Writ for Replevin as expeditiously as possible.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 23th day of July, 2015.

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